Odyssey of the Mind® Terms of Service

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Welcome to Odyssey of the Mind!

Thanks for using Odyssey of the Mind's services (including its website, and mobile and web-based applications, and any other tools, products, or services provided by Creative Competitions Inc. that link to or reference these Terms) (collectively, the "Services"). The Services are provided by Creative Competitions Inc. ("OM", "we," "our," or "us"), located at 406 Ganttown Road, Sewell, NJ 08080 U.S.A.

By using our Services, you are agreeing to these Terms of Service ("Terms"). Please read them carefully. Our Services are very diverse, so sometimes additional terms or product requirements (including age requirements) may apply. If additional terms or conditions are available with or applicable to the relevant Services, then those additional terms become part of your agreement with us if you use those Services. By accessing or using the Services, you intend and agree to be legally bound by these Terms. You may wish to print or save a local copy of the Terms for your records.

YOU ACKNOWLEDGE AND AGREE THAT THESE TERMS OF SERVICE LIMIT OUR LIABILITY AND THAT YOU ARE RELEASING US FROM VARIOUS CLAIMS IN SECTION 6 BELOW. THESE TERMS ALSO CONTAIN A BINDING ARBITRATION PROVISION IN SECTION 11 THAT AFFECT YOUR RIGHTS UNDER THESE TERMS WITH RESPECT TO THE SERVICES.

1. Using our Services

You must follow any policies made available to you within the Services, including our Privacy Policy.

Don't misuse our Services. For example, don't interfere with our Services, try to access them using a method other than the interface and the instructions that we provide, or extensively or automatically copy any content from the Services (in other words, no scraping). You may use our Services only for your personal non-commercial use, as permitted by law, including applicable export and re-export control laws and regulations. We may suspend or stop providing our Services to you if you do not comply with our terms or policies, if we are investigating suspected misconduct, or for any other reason.

Using our Services does not give you ownership of any intellectual property rights in our Services or the content you access through them ("Content"). You may not use Content, except as permitted in these Terms, by its owner, or as otherwise permitted by law. These Terms do not grant you the right to use any branding or logos used in our Services, including the OM name and logo. Don't remove, obscure, or alter any legal notices displayed in or along with our Services.

Our Services display some Content that is not our own. For example, Content belonging to our advertisers, other third parties, you, or other users (collectively, "Third Party Content"). We are not responsible for, and you waive all of our liability with respect to, Third Party Content. Third Party Content is the sole responsibility of the individual or entity that makes it available to you via the Services. We may review Third Party Content to determine whether it is illegal or violates our policies, and we may remove or refuse to display Third Party Content that we believe violates our policies or the law. But we do not generally review content beforehand, and we are not obligated to do so.

In connection with your use of the Services, we may send you service announcements, administrative messages, and other information. You may opt out of our marketing emails by clicking on the "unsubscribe" link in marketing e-mails or texting "Stop" or "Do Not Send" in response to text messages. Please be aware that there may be a brief period before we are able to process your opt-out.

Some of our Services are available on mobile devices or may utilize SMS/iMessage, which may cause you to incur SMS or data charges with your wireless provider. Please be aware that we have no control over these charges, and if you do not wish to be charged, you should stop using the mobile or SMS/iMessage features (as applicable).

2. Your OM Account

You may need an account in order to use the Services. If you create your own account, you agree that all registration information you give us will be accurate and current. If your account has been assigned to you by an administrator, such as your employer or educational institution, different or additional terms may apply and your administrator may be able to access or disable your account. You will timely notify us of any changes to any of the foregoing information. You are responsible for controlling access to any PCs, mobile devices, or other end points that you allow to store your Services password, or on which you enable a "Remember Me" or similar functionality ("Activated Device"). Accordingly, you agree that you will be solely responsible for all activities that occur under your Services accounts, including the activities of any individual with whom you share your Services account or an Activated Device.

To protect your account, keep your password confidential. You are responsible for the activity that happens on or through your account. If you learn of any unauthorized use of your password, please contact us at info@odysseyofthemind.com.

3. Payment

You agree to pay all amounts owed to us for the Services under any terms, policies or other written or electronic agreement we may have in place. We may require you to maintain valid credit card or other payment account information with us in order to receive the Services, and if so, you hereby authorize us to charge your credit card or other payment account for the Services. Your right to purchase products is conditioned upon our receipt of payment. Refusal of product delivery does not release you from payment liability. Any failure to maintain valid, up-to-date payment information with us or to keep your payments current will constitute a material breach of these terms, for which we may suspend or terminate your access to the Services immediately without notice. We may also suspend or cancel the shipment of ordered products to you. Nonetheless, you are required to pay any amount still owed to Creative Competitions, Inc. at the time your account is suspended or terminated. Interest will be charged on all unpaid delinquent amounts at the rate of 1.5% per month or the highest rate permitted by applicable law, whichever is lesser. You agree to reimburse us for all collection agency fees, attorneys' fees and other costs we may incur to collect delinquent amounts you owe to us.

4. Return Policy

We are happy to help you with a return if you reach out within 30-days of your delivery date and your item has not been used. **Note: ALL MEMBERSHIP SALES ARE NON-REFUNDABLE**

Please reach out to info@odysseyofthemind.com or call our office at (856) 256-2797 to begin the return or exchange process. We accept returns by the date that you reach out, so if one of our team members does not contact you until after the 30 days, do not worry, we will still help you out!

Once your return has been processed we will refund you for the returned item(s) minus the cost of the original shipping to your original payment method. Returned shipping cost is the customer's responsibility.

All refund recipients will receive an email confirmation for their records.

5. Exchange Policy

We would love to help get you the product that is right for you! We are able to do exchanges on products that are eligible for returns (within 30 days of delivery and unused).

The process will begin as a return but once the return is on its way back to us, proven by the tracking updates, we can begin the exchange process.

Please note, you will be responsible for the shipping of the exchanged item.

We will refund you or send you an invoice depending on the price difference between your original product and the one you are hoping to exchange.

Once the invoice has been paid we will ship out your exchange order!

6. Privacy and Feedback

Our Privacy Policy explains how we treat your personal information and protect your privacy when you use our Services. By using our Services, you agree that we can collect, use, and share data from you as described in our privacy policy. We are not responsible for any information or Content that you share with others via your use of the Services. You assume all privacy, security, and other risks associated with providing any information, including personally identifiable information, to other users of the Service.

If you submit feedback or suggestions about our Services, you agree that we may use your feedback or suggestions without obligation to you.

7. Modifying and Terminating our Services

We are constantly changing and improving our Services. We may add or remove functionalities or features, and we may suspend or stop a Service altogether, at any time, without any notice or liability.

You can stop using our Services at any time, although we'll be sorry to see you go. We may also stop providing Services to you, or add or create new limits to our Services, at any time.

Sections 6 - 13 will survive termination or expiration of these Terms indefinitely.

8. Our Warranties and Disclaimers

OTHER THAN AS EXPRESSLY SET OUT IN THESE TERMS, NEITHER OM NOR ITS LICENSORS, SUPPLIERS, ADVERTISERS, OR DISTRIBUTORS MAKE ANY SPECIFIC PROMISES ABOUT THE SERVICES. FOR EXAMPLE, WE DON'T MAKE ANY COMMITMENTS ABOUT THE CONTENT WITHIN THE SERVICES, THE SPECIFIC FUNCTIONS OF THE SERVICES, OR THEIR RELIABILITY, AVAILABILITY, OR ABILITY TO MEET YOUR NEEDS. WE ALSO DO NOT MAKE ANY WARRANTIES OR COMMITMENT RELATING TO NON-INFRINGEMENT, FREEDOM FROM VIRUSES OR OTHER HARMFUL CODE, OR ERROR-FREE OR UNINTERRUPTED OPERATIONS. WE PROVIDE THE SERVICES "AS-IS."

SOME JURISDICTIONS PROVIDE FOR CERTAIN WARRANTIES, LIKE THE IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. TO THE EXTENT PERMITTED BY LAW, WE DISCLAIM ALL WARRANTIES.

YOU AND YOUR HEIRS, SUCCESSORS, AND ASSIGNS HEREBY FOREVER IRREVOCABLY RELEASE, DISCHARGE, AND HOLD HARMLESS US, OUR AFFILIATES, AND OUR AND THEIR SUCCESSORS AND ASSIGNS, AND ITS AND THEIR OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS (COLLECTIVELY, "RELEASED PARTIES") FROM, AND AGREE NOT TO SUE ANY RELEASED PARTY FOR, ANY LIABILITIES, CLAIMS, OBLIGATIONS, SUITS, ACTIONS, DEMANDS, EXPENSES, AND DAMAGES WHATSOEVER (COLLECTIVELY, "LIABILITIES") THAT YOU MAY HAVE AGAINST ANY RELEASED PARTY WHETHER EXISTING NOW OR IN THE FUTURE, WHETHER KNOWN OR UNKNOWN, ARISING OUT OF OR IN CONNECTION WITH YOUR OR A THIRD PARTY'S CONDUCT RELATED TO USE OF THE SERVICES. YOU UNDERSTAND AND ACKNOWLEDGE THAT THE FOREGOING SENTENCE RELEASES AND DISCHARGES ALL LIABILITIES, WHETHER OR NOT THEY ARE CURRENTLY KNOWN TO YOU, AND YOU WAIVE YOUR RIGHTS UNDER CALIFORNIA CIVIL CODE SECTION 1542. YOU UNDERSTAND THE MEANING OF CALIFORNIA CIVIL CODE SECTION 1542, WHICH READS AS FOLLOWS: "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, AND THAT IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY."

9. Liability for our Services

TO THE EXTENT NOT PROHIBITED BY LAW, OM (AND ITS OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS) AND OUR LICENSORS, SUPPLIERS, ADVERTISERS, AND DISTRIBUTORS, WILL NOT BE RESPONSIBLE FOR LOST PROFITS, REVENUES, OR DATA, FINANCIAL LOSSES OR INDIRECT, SPECIAL, CONSEQUENTIAL, EXEMPLARY, OR PUNITIVE DAMAGES.

TO THE EXTENT NOT PROHIBITED BY LAW, THE TOTAL LIABILITY OF OM (AND ITS OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS) AND OUR LICENSORS, SUPPLIERS, ADVERTISERS, AND DISTRIBUTORS, FOR ANY AND ALL CLAIMS UNDER THESE TERMS OR RELATING TO YOUR USE OF THE SERVICES, INCLUDING FOR ANY IMPLIED WARRANTIES, IS LIMITED TO THE AMOUNT YOU PAID US TO USE THE SERVICES (OR, IF WE CHOOSE, TO SUPPLY YOU THE SERVICES AGAIN).

IN ALL CASES RELATING TO PROVIDING YOU THE SERVICES, OM (AND ITS OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS) AND ITS LICENSORS, SUPPLIERS, ADVERTISERS, AND DISTRIBUTORS, WILL NOT BE LIABLE FOR ANY LOSS OR DAMAGE THAT IS NOT REASONABLY FORESEEABLE OR THAT IS DUE TO EVENTS OUTSIDE OF OUR REASONABLE CONTROL, SUCH AS WARS, CRIMINAL ACTIVITIES, STORMS, NATURAL DISASTERS, ACTS OF GOVERNMENT, SUPPLY INTERRUPTIONS, OR TELECOMMUNICATION OR INTERNET FAILURES.

10. Business/Employer Uses of our Services

If you are using our Services on behalf of a business or employer, you are accepting these Terms on their behalf, and that business or employer agrees to be bound by these Terms.

11. Indemnification

You hereby agree to indemnify, defend, and hold harmless OM, its affiliated companies, and its and their predecessors, successors, and assigns, and its and their respective directors, officers, employees, agents, representatives, partners, and contractors from and against all claims, losses, expenses, damages and costs (including, but not limited to, reasonable attorneys' fees), resulting from or arising out of your actual or alleged breach of these Terms, any content you provide through the Services, or your use or misuse of the Services. However, you will not be responsible for claims, damages, and costs which are found by a court of competent jurisdiction to have arisen solely from our violation of applicable law.

12. About these Terms

We may modify these Terms or any additional terms that apply to a Service for any reason, for example, to reflect changes to the law or changes to our Services. You should look at the Terms regularly and the "Last Updated" date at the beginning of these Terms. We'll use reasonable efforts to give you notice of these modifications, such as posting notice of modifications to these Terms on this web page, through the Services, or via email. By continuing to use the Services after we make these modifications, you agree that you will be subject to the modified Terms. If you do not agree to the modified terms for a Service, you should discontinue your use of that Service.

If there is a conflict between these Terms and any additional terms for a Service, the additional terms will control for that conflict.

These Terms control the relationship between OM and you. They do not create any third-party beneficiary rights. If you do not comply with these Terms, and we don't take action right away, this doesn't mean that we are giving up any rights that we may have (such as taking action in the future). If it turns out that a particular term is not enforceable, this will not affect any other terms.

The laws of the United States and the State of New Jersey, excluding New Jersey's conflict of laws rules, will apply to any disputes arising out of or relating to these terms or the Services.

You may not assign or delegate your rights or obligations relating to these terms or your account for the Services without our prior written consent. We may assign these terms or assign or delegate any of our rights or obligations at any time.

For information about how to contact OM, please visit our https://www.odysseyofthemind.com/contact-us/.

13. Binding Arbitration

Without limiting your waiver and release in Section 6 you agree to the following:

a. Purpose. Any and all Disputes (as defined below) involving you and OM will be resolved through individual arbitration. In arbitration, there is no judge or jury and there is less discovery and appellate review than in court. This Section 11 (the "Arbitration Provision") shall be broadly interpreted. Notwithstanding anything to the contrary in these Terms, this Section 11 does not apply to an action by either party to enjoin the infringement or misuse of its intellectual property rights, including copyright, trademark, patent or trade secret rights.

b. Definitions. The term "Dispute" means any claim or controversy related to the Services or the Software, including but not limited to any and all: (1) claims for relief and theories of liability, whether based in contract, tort, fraud, negligence, statute, regulation, ordinance, or otherwise; (2) claims that arose before these Terms or any prior agreement; (3) claims that arise after the expiration or termination of these Terms; and (4) claims that are currently the subject of purported class action litigation in which you are not a member of a certified class. As used in this Arbitration Provision, "OM" means Creative Competitions Inc. and any of its predecessors, successors, assigns, parents, subsidiaries and affiliated companies and each of their respective officers, directors, employees and agents, and “you” means you and any users or beneficiaries of your access to the Services.

c. Initiation of Arbitration Proceeding/Selection of Arbitrator. The party initiating the arbitration proceeding may open a case with JAMS, formerly Judicial Arbitration and Mediation Services, Inc., (“JAMS”) by visiting its website (www.jamsadr.com) or calling its toll-free number (1-800-352-5267). You may deliver any required or desired notice to OM by mail to 406 Ganttown Road, Sewell, NJ 08080, U.S.A.

d. Right to Sue in Small Claims Court. Notwithstanding anything in this Arbitration Provision to the contrary, either you or OM may bring an individual action in a small claims court in the area where you access the Services if the claim is not aggregated with the claim of any other person and if the amount in controversy is properly within the jurisdiction of the small claims court.

e. Arbitration Procedures. This Arbitration Provision shall be governed by the Federal Arbitration Act. Arbitrations shall be administered by JAMS pursuant to its Streamlined Arbitration Rules and Procedures (the “JAMS Rules”) as modified by the version of this Arbitration Provision that is in effect when you notify OM about your Dispute. You can obtain the JAMS Rules from the JAMS by visiting its website (www.jamsadr.com) or calling its toll-free number (1-800-352-5267). If there is a conflict between this Arbitration Provision and the rest of these Terms, this Arbitration Provision shall govern. If there is a conflict between this Arbitration Provision and the JAMS rules, this Arbitration Provision shall govern. If JAMS will not administer a proceeding under this Arbitration Provision as written, the parties shall agree on a substitute arbitration organization. If the parties cannot agree, the parties shall mutually petition a court of appropriate jurisdiction to appoint an arbitration organization that will administer a proceeding under this Arbitration Provision as written applying the JAMS Rules. A single arbitrator will resolve the Dispute. Unless you and OM agree otherwise, any arbitration hearing will take place in Philadelphia, PA. The arbitrator will honor claims of privilege recognized by law and will take reasonable steps to protect customer account information and other confidential or proprietary information. The arbitrator shall issue

a reasoned written decision that explains the arbitrator's essential findings and conclusions. The arbitrator's award may be entered in any court having jurisdiction over the parties only if necessary for purposes of enforcing the arbitrator's award. An arbitrator's award that has been fully satisfied shall not be entered in any court.

f. Waiver of Class Actions and Collective Relief. THERE SHALL BE NO RIGHT OR AUTHORITY FOR ANY CLAIMS TO BE ARBITRATED OR LITIGATED ON A CLASS ACTION, JOINT OR CONSOLIDATED BASIS OR ON BASES INVOLVING CLAIMS BROUGHT IN A PURPORTED REPRESENTATIVE CAPACITY ON BEHALF OF THE GENERAL PUBLIC (SUCH AS A PRIVATE ATTORNEY GENERAL), OTHER SUBSCRIBERS, OR OTHER PERSONS. THE ARBITRATOR MAY AWARD RELIEF ONLY IN FAVOR OF THE INDIVIDUAL PARTY SEEKING RELIEF AND ONLY TO THE EXTENT NECESSARY TO PROVIDE RELIEF WARRANTED BY THAT INDIVIDUAL PARTY'S CLAIM. THE ARBITRATOR MAY NOT CONSOLIDATE MORE THAN ONE PERSON'S CLAIMS, AND MAY NOT OTHERWISE PRESIDE OVER ANY FORM OF A REPRESENTATIVE OR CLASS PROCEEDING.

g. Arbitration Fees and Costs. If your claim seeks more than $75,000 in the aggregate, the payment of the JAMS's fees and costs will be governed by the JAMS Rules. If your claims seek less than $75,000 in the aggregate, the payment of the JAMS's fees and costs will be OM's responsibility. However, if the arbitrator finds that your Dispute was frivolous or brought for an improper purpose (as measured by the standards set forth in Federal Rule of Civil Procedure 11(b)), the payment of the JAMS's fees and costs shall be governed by the JAMS Rules and you shall reimburse OM for all fees and costs that were your obligation to pay under the JAMS Rules. You may hire an attorney to represent you in arbitration. You are responsible for your attorneys' fees and additional costs and may only recover your attorneys' fees and costs in the arbitration to the extent that you could in court if the arbitration is decided in your favor. Notwithstanding anything in this Arbitration Provision to the contrary, OM will pay all fees and costs that it is required by law to pay.

h. Severability and Waiver of Jury Trial. If any part of subsection (f) of this Arbitration Provision is found to be illegal or unenforceable, the entire Arbitration provision will be unenforceable and the Dispute will be decided by a court. WHETHER IN COURT OR IN ARBITRATION, YOU AND OM AGREE TO WAIVE THE RIGHT TO A TRIAL BY JURY TO THE FULLEST EXTENT ALLOWED BY LAW. If any other clause in this Arbitration Provision is found to be illegal or unenforceable, that clause will be severed from this Arbitration Provision and the remainder of this Arbitration Provision will be given full force and effect.

i. Continuation. This Arbitration Provision will survive the termination or expiration of these Terms.